

HON. BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SAFETY STAR, LLC, a Missouri limited
liability company,

Plaintiff,

vs.

APTIBYTE, LLC, a Washington limited
liability company,

Defendant.

No. 2:23-cv-01399-BHS

**DECLARATION OF
ALBERT "BEAU" CULBERTSON IN
OPPOSITION TO DEFENDANT'S
MOTION FOR JUDGMENT ON THE
PLEADINGS**

DECLARATION OF ALBERT "BEAU" CULBERTSON

This declaration is given by Albert "Beau" Culbertson pursuant to 28 U.S.C. § 1746:

1. I am over 18 years old and make this declaration in support of the
Plaintiff's Safety Star, LLC ("Safety Star") opposition to Defendant's Aptibyte, LLC
("Aptibyte") motion for judgment on the pleadings, based on my personal knowledge

CULBERTSON DECLARATION

2:23-cv-01399-BHS

1 of the facts relayed herein, and could and would testify competently to the facts set
2 forth herein if called to do so. All exhibits attached to this declaration are true and
3 accurate reproductions as set forth below.

4 2. To commercialize my passion for workplace safety, I began soliciting
5 Missouri businesses to purchase B-SAFE bingo cards in March 1992.
6

7 3. For example, I ordered thousands of B-SAFE bingo cards to be printed
8 around January 31, 1992 to sell my safety bingo game to as many companies as possible
9 throughout Missouri. Attached as Exhibit A is a copy of a dated receipt for an order of
10 printed copies of the B-SAFE bingo cards.
11

12 4. Throughout 1992 I sent out brochures via direct mail to companies
13 advertising my safety bingo game. Attached as Exhibit B is a scanned copy of one of
14 those brochures.

15 5. During the early days of Safety Bingo, I sold the B-SAFE Bingo cards
16 under the d/b/a "Safety Concepts," from 1992 to 2002. Attached as Exhibit C is a
17 collection of screenshots from the Missouri Secretary of State's website showing a
18 summary of the corporate filings for Safety Concepts. Regardless of the d/b/a, "B-
19 SAFE" was always the center of the brand and has been used continuously for Bingo
20 card games.
21
22
23
24
25
26
27

CULBERTSON DECLARATION

2:23-cv-01399-BHS

1 6. I have always been the one and only owner of Safety Star, LLC since the
2 company's incorporation on February 28, 2002. Attached as **Exhibit D** is a copy of
3 Safety Star's articles of incorporation.

4 7. Attached as **Exhibit E** is a collection of screen-captures of Safety Star's
5 website <https://safetystar.com/> where the company advertises the B-SAFE bingo kits
6 and cards.

7 8. Since Safety Star's founding, no one else has had permission to use the B-
8 SAFE and BSAFE BINGO marks. The company was set up to be the exclusive user and
9 recipient of revenues from all uses of the marks.
10

11 9. I filed for B-SAFE in the U.S.P.T.O. on or about January 8, 2005. Attached
12 as **Exhibit F** is a screen capture showing a summary of the documents filed during the
13 prosecution of that application as well as the application summary.
14

15 10. I filed for BSAFE BINGO in the U.S.P.T.O. on June 4, 2018. Attached as
16 **Exhibit G** is a screen capture showing a summary of the documents filed during the
17 prosecution of that application as well as the application summary.
18

19 11. I am not a trademark attorney and I have no formal trademark law
20 training. I relied on my former counsel Maulin V. Shah for all aspects of intellectual
21 property advising regarding the B-SAFE and BSAFE BINGO trademarks. Mr. Shah and
22 I have known each other for roughly six years, and we generally had worked well
23 together. So I had no reason to second-guess issues dealing with the trademarks,
24

25
26 CULBERTSON DECLARATION

27 2:23-cv-01399-BHS

1 including issues concerning ownership, licensing, assignments, etc. My time needs to be
 2 focused on running the business, and so I have to rely on other subject-matter experts
 3 around me to do their job correctly. Looking to the *nunc-pro-tunc* assignments at issue in
 4 this case, I have no idea why the effective date of January 22, 2019 was chosen for either
 5 of the assignments.
 6

7 12. After the Court directed Safety Star to pay the award of attorney's fees in
 8 this case, I made payment on or about April 4, 2024.

9 13. On or about April 1 and April 18, 2024 I typed "safetybingo" into Google
 10 and as shown in Exhibit H, Aptibyte's cards continue to show up in search results.
 11 Those cards are also available for download on the bingobaker.com website, as shown
 12 in Exhibit H.
 13

14 I declare under penalty of perjury under the laws of the United States that the
 15 foregoing is true and correct to the best of my knowledge.

16 Executed this 22nd day of April 2024, in Springfield, Missouri.
 17

18 Signature: Beau Culbertson
 19 Beau Culbertson (Apr 22, 2024 10:24 CDT)

20 ALBERT "BEAU" CULBERTSON
 21 Managing Member of Safety Star, LLC
 22
 23
 24
 25

26 CULBERTSON DECLARATION

27 2:23-cv-01399-BHS